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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,724	12/10/2001	Yoshiko Iida	862.C2465	3633
5514	7590	08/23/2006		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER PATEL, SHEFALI D	
			ART UNIT 2624	PAPER NUMBER

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/006,724	IIDA ET AL.	
	Examiner	Art Unit	
	Shefali D. Patel	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 12, 2006 has been entered.

Response to Amendment

2. The amendment was received on June 12, 2006.
3. claims 1-2, 8-9 and 11-13 are canceled.
4. The amendment to the specification and the title of the invention have been approved and made of record.

Response to Arguments

5. Applicant's arguments filed under Remarks on pages 5-8 on June 12, 2006 have been fully considered but they are not persuasive.

Applicants argues on page 7 stating

“...the spectral reflectance image data F and the color chip image data P’ of the color chip 6 are acquired independently...the color data referred to in claim 3 corresponds to the spectral reflectance image data F based on the Examiner’s opinion.”

The examiner respectfully disagrees.

The examiner has pointed out that the spectral reflectance image data F is the color (RGB) spectral reflectance image data. The color chip 6 and the RGB image of the object 1 are independent for sure. The present invention as claimed says nothing about them not being independent and is not relevant in this matter. Simply stated, the examiner is pointing out in Ohsawa that the camera 3 is taking a color

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image (RGB) of an object 1. That image data is inputted to the calculation unit 4 where the spectral distribution data is acquired.

Further, applicants argue on page 7 also stating

“the spectral reflectance image data F and the color chip image data P’ of the color chip 6 are acquired independently...Even if *Ohsawa* is deemed to teach that the tristimulus values XYZ are calculated from the spectral reflectance image data F and the color chip image data P’, this does not amount to a teaching or suggestion to acquire the color chip image data P’ (spectral distribution data) in accordance with the acquired spectral reflectance image data F (color data).”

The examiner respectfully disagrees.

Please note that Ohsawa discloses digital camera 3 taking an RGB image of the object, which is passed to the spectral reflectance calculation unit (i.e., second acquisition section). This unit calculates spectral reflectance corresponding to each pixel of the RGB image data using the spectral sensitivity data of the digital camera 3 and color matching function data as disclosed by Ohsawa at col. 5 lines 15-28.

Applicants also argue on page 7 stating

“...*Ohsawa* does not teach the estimation of the spectral distribution data of the total wavelength region by acquiring partial spectral distribution data ...recited in claim 3.”

The examiner respectfully disagrees.

The examiner does not see any recitation of “acquiring partial spectral distribution data” in claim 3. This is clearly not claimed in claim 3.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 3-7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohsawa (US 6,980,231).

With regard to **claim 3** Ohsawa discloses an image processing apparatus (Figures 1 and 5) comprising: a first acquisition section (camera 3, Figures 1 and 5), arranged to acquire color data of an object (col. 5 lines 13-21); a second acquisition section, arranged to acquire spectral distribution data (col. 5 lines 20-28 and lines 44-54), which is necessary to estimate spectral distribution data of a total wavelength region, from a plurality of spectral distribution data in accordance with the acquired color data (col. 5 line 60 to col. 6 lines 1-30); an estimator (matrix M on col. 7 lines 1-9), arranged to estimate the spectral distribution data of the total wavelength region on the basis of the spectral distribution data acquired by said second acquisition section (col. 6 line 31 to col. 7 lines 1-22).

With regard to **claim 4** Ohsawa discloses spectral distribution data acquired by said second acquisition section is defined as a combination of the spectral distribution data (camera 8 and at col. 6 lines 33-41).

With regard to **claim 5** Ohsawa discloses a generator arranged to generate the spectral distribution data of the total wavelength region from the color data acquired by said first acquisition section and the spectral distribution data of the total wavelength region estimated by said estimator (col. 6 lines 19-41).

With regard to **claim 6** Ohsawa discloses a configuration of the spectral distribution data acquired by said second acquired acquisition section necessary to estimate spectral distribution data of color data is predetermined (col. 5 lines 54-59).

With regard to **claim 7** Ohsawa discloses the spectral distribution data acquired by the second acquisition section is arbitrarily changeable (P' to XYZ to R'G'B' at col. 7 line 53 to col. 9 line 41).

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Claim 10 recites identical features as claim 1 except claim 10 is a method claim. Thus, arguments similar to that presented above for claim 1 is equally applicable to claim 10.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shefali D. Patel whose telephone number is 571-272-7396. The examiner can normally be reached on M-F 8:00am - 5:00pm (First Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JINGGE WU
PRIMARY EXAMINER

Shefali D Patel
Examiner
Art Unit 2624

sdp